

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

February 4, 2010

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, February 4, 2010, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: G. Nelson Van Fleet, Chair; Debra Miller Stevens, Vice Chair; Shawn Farney; David Dennis; David Foster; Bud Hentzen; Joe Johnson; Don Klausmeyer; John W. McKay Jr.; M.S. Mitchell and Don Sherman. Darrell Downing; Hoyt Hillman and Ronald Marnell were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Joe Lang, Chief Deputy City Attorney; Bob Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

MOTION: To send Bill Johnson a thank you letter for his contributions to the Planning Commission.

MCKAY moved **MITCHELL** seconded the motion, and it carried (11-0).

1. Approval of the January 21, 2010 MAPC meeting minutes:

MOTION: To approve the January 21, 2010 minutes as amended.

MILLER STEVENS moved, **FARNEY** seconded the motion, and it carried (7-4).

DENNIS, KLAUSMEYER, MCKAY, MITCHELL – Abstained.

2. CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS

- 2-1. **SUB2010-01: One-Step Final Plat -- BENTLEY WEST SUBSTATION ADDITION**, located on the south side of 125th Street North, west of 151st Street West.

NOTE: This site is located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan. A Conditional Use for a Major Utility has been requested.

STAFF COMMENTS:

- A. This plat will be subject to approval of an associated Conditional Use for a Major Utility and any related conditions.
- B. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage (waste holding tank) and water wells. A memorandum shall be obtained specifying approval.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.

- D. County Engineering has approved the drainage plan.
- E. The vicinity map should be corrected to reference section 3.
- F. The signature line for the County Commissioners Chairman needs to reference "Karl Peterjohn."
- G. County Engineering has approved the access controls. In accordance with the site plan, the plat denotes one opening along 125th St. North. The final plat shall reference the dedication of access controls in the plat's text.
- H. The plat's text needs corrected to include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. Sedgwick County Fire Department advises that the plat should meet the requirements of the Sedgwick County Service Drive Code.
- J. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send the information via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

HENTZEN moved, **DENNIS** seconded the motion, and it carried (10-1).
SHERMAN – Abstained.

3. **PUBLIC HEARING – VACATION ITEMS**

PUBLIC HEARINGS

4. **Case No.: ZON2009-41** Charles R. and Connie L. Woodard Living Trust (owner); Baughman Company, PA c/o Russ Ewy (agent) Request City zone change from LC Limited Commercial to GC General Commercial with Protective Overlay on property described as:

Lot 1, Dillon 5th Addition to Wichita, Sedgwick County, Kansas, generally located at the southwest corner of Lincoln Street and Hydraulic Avenue.

BACKGROUND: This is a request for a City zone change from LC Limited Commercial (“LC”) to GC General Commercial (“GC”), generally located on the southwest corner of Lincoln Street and Hydraulic Avenue to allow a broader range of uses for redevelopment. The request was accompanied by a list of prohibited uses (see attachment), some of which are allowed by right in the GC district, and others of which have been allowed by right in the past but now would be prohibited. The types of uses remaining for the site would be:

- all residential and agricultural uses permitted in the GC district;
- consumer shopping uses such as general retail, pawnshop and secondhand store, personal care and improvement service, bank, office, medical service, restaurant, service station and convenience store;
- certain institutional uses, including church, school, university or college, park and recreation, government service, library, safety service, nursing facility; and
- animal care, limited, farmers market, nursery and garden center, post office substation, printing and copying, limited, and vocational school.

Expanded uses include:

Animal Care, General (without Conditional Use)
Construction Sales and Service (without primary retail component)
Printing and Publishing, General
Warehouse, Self-Service Storage (without a Conditional Use)
Manufacturing, Limited and General
Research Services;
Storage, Outdoor, as a Principal Use
Warehousing
Welding or Machine Shop
Wholesale or Business Services.

The property was a Dillon grocery store until it was closed approximately two years ago. It has 35-foot platted setbacks along Hydraulic Avenue and Lincoln Street, but only a 10-foot rear setback across the street from residences facing onto Greenwood Avenue and no platted setback on the alley. Except as restricted through the protective overlay, redevelopment of the site will be governed by GC development standards for other setbacks, and site development regulations for parking, screening, compatibility standards (setbacks, height, dumpster location) of the Unified Zoning Code and landscaping per the Landscape Ordinance.

The property directly north of Lincoln Street is a QuikTrip convenience store on land zoned LC. To the east of the convenience store is a sliver of LC, but used as a residence. To the west of the convenience store are residences on property zoned B Multi-Family Residential (“B”). East of the site, at the corner of Lincoln and Hydraulic, is a house converted to personal care service use on property zoned LC. All the remaining property, to the east, south and west, is zoned TF-3 Two-Family Residential (“TF-3”). The area is mostly single-family residences with a scattering of duplexes.

CASE HISTORY: The property is platted as Dillon 5th Addition, recorded October 21, 1974.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, B	Convenience store, single-family residences
SOUTH:	TF-3	Single-family residences
EAST:	LC, TF-3	Personal Care, single-family residences
WEST:	TF-3	Single-family residences

PUBLIC SERVICES: The subject property is allowed one point of direct access onto Lincoln Street, a four-lane urban minor arterial with a left-turn lane abutting the site. It is allowed two points of direct access onto Hydraulic Avenue, an urban minor arterial being improved to three-lane standard. Currently, it has uncontrolled access to Greenwood Avenue, a local residential street, and uncontrolled access to the alley abutting the south property line. In 2006, the traffic volume (Annual Average Daily Traffic “AADT”) was approximately 8,719 on 21st Lincoln Street west of Hydraulic and 13,432 east of Hydraulic. The volume was 5,417 on Hydraulic Avenue south of Lincoln and 7,750 north of Lincoln. Normal public services are available.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” The current zoning is in conformance with this recommendation. The increased intensity to GC to allow a broader range of industrial type uses is less closely aligned with the intended function of “local commercial,” however the protective overlay attempts to restrict the uses to be better aligned with the character of the surrounding local residential urban environment beyond the arterial intersection.

Commercial Objective III.B encourages future commercial areas to “minimize detrimental impacts to other adjacent land uses. The **Commercial Locational Guideline #3** of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Conformance with this objective and the locational guideline will be enhanced by the improved buffering and screening near the residential uses through the protective overlay.

RECOMMENDATION: Based upon this information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to Protective Overlay #239.

1. The subject property is permitted all the uses allowed by right under the “GC” General Commercial zoning district, except for the following uses:
 - Auditorium or Stadium
 - Cemetery
 - Correctional Placement Residence, Limited and General
 - Day Care, Limited and General
 - Golf Course
 - Hospital
 - Recycling Collection Station, Private
 - Recycling Collection Station, Public
 - Recycling Processing Center
 - Reverse Vending Machine

Bed and Breakfast Inn
Car Wash
Funeral Home
Hotel or Motel
Kennel, Hobby and Boarding/Breeding/Training
Marine Facility, Recreational,
Microbrewery
Monument sales
Nightclub in the City
Recreation and Entertainment, Indoor and Outdoor
Recreational Vehicle Campground
Rodeo in the City
Riding Academy or Stable
Sexually Oriented Business
Tattooing and Body Piercing Facility
Tavern or Drinking Establishment
Vehicle and Equipment Sales
Vehicle Repair, Limited and General
Asphalt or Concrete Plant, Limited
Vehicle Storage Yard

2. Event Centers, Entertainment Establishments, Teen Clubs and Nursery and Garden Center shall not be permitted except by Conditional Use.
3. No new buildings or structures or expansion of existing buildings shall be permitted within 35 feet of Greenwood Avenue and 20 feet of the alley or south property line.
4. Landscaping shall be provided at a rate of 1.5 times the Landscape Ordinance along Greenwood Avenue, the alley and the south property line prior to occupancy of the building. Existing trees within the Greenwood Avenue may be used to meet the requirements of the Landscape Ordinance.
5. A solid screening fence between six and eight feet in height shall be installed along Greenwood Avenue and along the south property line prior to occupancy of the building. A solid screening fence between six and eight feet in height shall be required around all outdoor storage areas to reasonably screen them from ground view. Solid screening is not required where the west side of the building serves as a screening wall and is not required north of the north face of the building.
6. No additional loading docks or driveway entrances shall be permitted along Greenwood Avenue or the alley along the south. Existing loading docks, outdoor work and storage areas shall be screened from ground-level view by solid screening prior to occupancy of the building.
7. No outdoor display shall be allowed within 50 feet of the west or south property lines. No outdoor storage shall be permitted within the north 200 feet of the subject property. All outdoor storage or display areas shall not interfere with internal circulation and/or fire lanes.
8. No building or wall signage or freestanding signage shall be permitted along Greenwood Avenue, the alley or the south property line except signage in compliance with and permitted in all zoning districts by the Wichita Sign Code.
9. Billboards, off-site signage and portable signage shall be prohibited. Signage classified by the Wichita Sign Code as animated, flashing or moving signs shall be prohibited.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property directly north of Lincoln Street is a QuikTrip convenience store on land zoned LC. To the east of the convenience store is a sliver of LC, but used as a residence. To the west of the convenience store are residences on property zoned B Multi-Family Residential ("B"). East of the site, at the corner of Lincoln and Hydraulic, is a house converted to personal care service use on property zoned LC. All the remaining property, to the east, south and west, is zoned TF-3Two-Family Residential ("TF-3"). The area is mostly single-family residences with a scattering of duplexes.

2. The suitability of the subject property for the uses to which it has been restricted: The property could be used as currently zoned. This is the intensity of use found on the other corners of the intersection of Lincoln Street and Hydraulic Avenue.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The property is surrounded by residential use on three sides. The back of the commercial building is the view of residences on the west side of Greenwood Avenue. Consequently, the protective overlay is necessary to reduce the range of more intense uses allowed in GC, plus it eliminates a variety of LC uses also less compatible when located in proximity to residential use. Additional site development screening and landscape buffering in the protective overlay reduces the impact of the use on nearby residential development.
4. Length of time the subject property has remained vacant as zoned: The Dillon grocery store was closed approximately two years ago.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "local commercial." The current zoning is in conformance with this recommendation. The increased intensity to GC to allow a broader range of industrial type uses is less closely aligned with the intended function of "local commercial," however the protective overlay attempts to restrict the uses to be better aligned with the character of the surrounding local residential urban environment beyond the arterial intersection. **Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses. The **Commercial Locational Guideline #3** of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Conformance with this objective and locational guideline will be enhanced by the improved buffering and screening near the residential uses through the protective overlay.
6. Impact of the proposed development on community facilities: The impact on public services is difficult to estimate given that the actual use of the site is unknown. Typically, traffic generation in LC and GC fall within the same range, so while an actual use may lead to impacts, the average reuse would be predicted to have the same general impact as the uses allowed under current zoning.

DONNA GOLTRY, Planning Staff presented the Staff Report. She reported that DAB I unanimously recommended approval and with two additional prohibited uses which were a pawn shop and speedy cash type operation.

MITCHELL asked which residences will benefit from the improved buffering and screening.

GOLTRY said the residences on the west and south sides of the site will benefit from the protective overlay provisions.

RUSS EWY, BAUGHMAN COMPANY, PA AGENT FOR APPLICANT referenced the additional prohibited uses of the pawn shop and quick cash loan establishments requested at the DAB I meeting. He said at the DAB meeting that since he hadn't been discussing those as potential uses for property with his client that he would have to check. He said after discussion with his client, his client would like those uses available to this property.

BERNEICE ALBRIGHT, 1239 S. HYDRAULIC said she has lived one year at her address; that she has never owned property before in Wichita; and that the zoning procedure is brand new to her. She said she was thrilled when the DAB and neighborhood association recommended not allowing Payday Loans and a pawn shop at the site. She said it made her feel better because she would not like that at all. She

said if the property becomes a pawn shop or Payday Loan, she will file a written complaint and petition. She said this is an absentee property owner who does not live in the neighborhood and added that the property has been neglected for two years. She said the only positive action she has seen at the property in a one year period was when the building was used to distribute Christmas packages to destitute families for 3-4 days. She said other than that, the property has just sat there vacant. She said she doesn't understand how the State of Kansas can allow Payday Loans which she believes are an "Al Capone level loan shark practice" that are illegal in 16 other states. She also made several comments concerning pawn shops and the way in which they operate. She said she does not want to see the building sit empty and commented that the building could be used without this zoning change. She requested that the Commission consider denying the whole thing if it is going to include pawn shops and Payday Loans.

RUSS EWY commented that his client has no desire at this point to establish a speedy cash loan service type of operation on the property; however, they feel a brokerage firm /pawn shop would be a viable use of this property. He said they are requesting that a pawn shop be left as a permitted use. He concluded by saying that they would accept the recommendation of the MAPC.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **MITCHELL** seconded the motion.

FOSTER asked if that recommendation included the pawn shop and Payday Loan type business..

MCKAY said yes.

SUBSTITUTE MOTION: To approve subject to the DAB I recommendation.

FOSTER moved, **DENNIS** seconded the motion, and it failed (2-8-1).

FARNEY; HENTZEN; KLAUSMEYER; MCKAY, MILLER STEVENS; MITCHELL; SHERMAN; VAN FLEET – No.

JOHNSON – Abstained. He said he had a potential client looking at the building.

ORIGINAL MOTION: (9-1-1).

FOSTER – No. **JOHNSON** – Abstained.

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5. **Case No.: CON2009-45** - Leo R. Stahl Request City Conditional Use to amend CON2004-08, a group residence limited, to remove the restrictions of it being a residence for young women only, of having a staff member as a resident and not permitting residences to have personal vehicles on the site on property described as:

The West 15 feet of Lots 85, 87 and 89, on Vassar Avenue, and all of Lots 86, 88, 90, 92 and 94, on Fairmount Avenue, all in Fairmount Addition to Wichita, Sedgwick County, Kansas, generally located on the northeast corner of 15th Street North and Fairmount Avenue.

BACKGROUND: The applicant is requesting amendment #1 to CON2004-00008, a Conditional Use that allows a "group residence, limited," on the TF-3 Two Family Residential ("TF-3") zoned site with the following conditions:

1. The group residence shall be limited to a home for young women and shall be limited to a maximum 10 residents plus one resident staff member, and other ancillary office staff.
2. Residents shall not be permitted to drive a vehicle to or park a vehicle at the group residence except for the resident staff member.

3. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
4. The site shall be developed in general conformance to the approved site plan.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The Unified Zoning Code (UZC), Art.II, Sec.II-B, 5(i) defines a “group residence” as a residential facility providing cooking, sleeping and sanitary accommodations for a group of people, not defined as a family, on a weekly or longer basis. Typical uses include: fraternity or sorority houses, dormitories, residence halls, boarding or lodging houses, children homes and emergency shelters for the homeless and for victims of crime, abuse or neglect. Group residence, limited, allows 6-15 to occupy a facility, including staff members who reside in the facility.

The proposed amendment would allow this group residence to be open to both men and women, eliminate the requirement for a resident staff member (all in condition #1) and allow the residents’ to use and park their personal vehicles on the site (condition #2), while retaining the other conditions. The intent of the amendment is to provide additional housing opportunities (but not limited to) for students attending Wichita State University (WSU). The WSU campus is located two-blocks north of the subject site and is the dominant development in the area.

The TF-3 zoned 0.46-acre platted lot is located on the northeast corner of 15th Street North and Fairmount; Lots 86, 88, 90, 92 & 94 and the west 15 feet of Lots 85, 87 & 89, all in the Fairmount Addition. The house (built 1895) is currently vacant and is known as the Joe Walsh house, a previous owner. The earliest residents were Nathan J. Morrison and his family. Mr. Morrison was the first president of Fairmount College, which is now WSU. It had been used as a nonconforming fraternity house in the past.

The properties located nearest to the site are zoned TF-3 and are developed as single-family residences, duplexes, multi-family residences and/or group residences, and a few vacant residential buildings. The larger surrounding area’s development includes a mix of: single-family residences, duplex, multi-family residential, group residences (including fraternities), some vacant residences, churches and Fairmount public park. It appears that some of the multi-family residential and/or group residences may be non-conforming uses; the WSU campus is located two-blocks north of the subject site. Many of the residences (group residences, duplexes and single-family residences) appear to be rental units, with a high probability that some are being used by students attending WSU. The site and the area are located in a Historical Environs.

The site plan shows a footprint of the existing vacant house and its four car garage, a proposed 5-foot wrought iron fence along the site’s 15th Street North and Fairmount Avenue frontage and a proposed 6-foot wooden fence along the site’s north and east sides where it abuts residences and where the site’s proposed parking is located. Art. IV, Sec. IV-A.4 of the Unified Zoning Code (UZC) requires one parking space for each resident and this is met by the site plan, which includes the required parking space for the disabled. The proposed amendment does not trigger any of the UZC landscaping, screening or compatibility standards. The site plan also shows more proposed changes to the site, including removal of concrete rubble, removal of an old brick incinerator and driveway, new sidewalk, a handicap ramp, a 24-foot entrance and drive off of Fairmount and existing and proposed landscape.

CASE HISTORY: The subject property is platted as part of Fairmount Addition, recorded February 15, 1887. The property was approved for a Conditional Use, CON2004-00008, to allow a group residence,

limited with conditions; see the five conditions on the first page of the “Background” section of this report.

ADJACENT ZONING AND LAND USE:

NORTH:	“TF-3”	Duplex, single-family residential, group residence, vacant residence
SOUTH:	“TF-3”	Duplex, single-family residential
EAST:	“TF-3”	Single-family residential, duplex, vacant residence
WEST:	“TF-3”	Single-family, duplex, vacant residence

PUBLIC SERVICES: The subject property is located along Fairmount Avenue and 15th Street North, both paved (paved with brick in the case of 15th) and curbed residential streets. The intersection of Fairmount and 15th is designed/built (full curbed median) to keep traffic from going south along Fairmount and west along 15th; all traffic goes north and east. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide of the Comprehensive Plan identifies this area as appropriate for “Urban Residential” development. The Urban Residential category reflects the full diversity of residential development densities found in a large urban municipality. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may be found in this category. The UZC identifies the TF-3 zoning district as meant to accommodate moderate density single-family residential and duplex developments as well as very limited multi-family residential development. The UZC also identifies the TF-3 zoning district as being compatible with the Urban Residential category. The earlier approved Conditional Use, CON2004-00008, to allow a group residence, limited, conforms to both the 2030 Wichita Functional Land Use Guide’s Urban Residential category and the UZC’s intent for the TCF-3 zoning district. The proposed amendment does not alter that conformance.

The Wichita Residential Area Enhancement Strategy of the Comprehensive Plan identifies this area as a “Re-establishment Area.” A Re-establishment Area contains neighborhoods that exhibit deteriorating social organizations and a lack of private reinvestment. The Comprehensive Plan indicates that neighborhoods within a Re-establishment Area need some level of special enhancement or improvement in order to ensure future viability of the neighborhood. The proposed amendment to the existing group residence represents another opportunity to allow a vacant house (the originally approved CON2004-00008, never lead to occupancy of the house) to be reoccupied and provide additional housing opportunities for the general population, which meets goals of the Re-establishment Area.

RECOMMENDATION: Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

1. The group residence shall be limited to a maximum 10 residents.
2. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
3. The site shall be developed in general conformance to the approved site plan, including on-site parking that conforms to the UZC’s parking standards for one parking space per resident, for a total of 10 parking spaces. The appearance of the dwelling will remain residential in character.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The immediate area is zoned TF-3 and is developed as: single-family residences, duplexes, multi-family residences/group residences and a few vacant residential buildings. The larger surrounding area's development includes a mix of: single-family residences, duplex, multi-family residential, group residences (including fraternities), some vacant residences, churches and Fairmount public park. It appears that some of the multi-family residential and/or group residences may be non conforming uses; the WSU campus is located two-blocks north of the subject site. Many of the residences (group residences, duplexes and single-family residences) appear to be rental units, with a high probability that they are being used by students attending WSU. The WSU campus is located two-blocks north of the subject site and is the dominant development in the area. The site and the area are located in a Historical Environs.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property could continue to be used for a single-family residence, or as the previously approved "group residence, limited," CON2004-00008. The proposed amendment to the existing group residence represents another opportunity to allow a vacant house (CON2004-00008, never lead to occupancy of the house) to be reoccupied and provide additional housing opportunities.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The amendment to the existing group residence allows more opportunity for the vacant house to be reoccupied, by eliminating the restriction of it being used by on-site, supervised women only. By allowing both men and women, without required site residency for supervision, the group residence will open residency to the greater population. Similar group residences are found within this area, so the proposed amendment will not provide a development that is out of character with the area. The appearance of the dwelling will remain residential in character, thus preserving the residential character of the area, a mix of housing built between 1895 and the early 1950s. The required off-street parking will keep the site's residences vehicles off the streets.
4. Length of time subject property has remained vacant as zoned: The property has been vacant since its use as a fraternity, approximately 16 years ago.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Urban Residential" development. The Urban Residential category reflects the full diversity of residential development densities found in a large urban municipality. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may be found in this category. The UZC identifies the TF-3 zoning district as meant to accommodate moderate density single-family residential and duplex developments as well as very limited multi-family residential development. The UZC also identifies the TF-3 zoning district as being compatible with the Urban Residential category. The earlier approved Conditional Use, CON2004-00008, to allow a group residence, limited, conforms to both the 2030 Wichita Functional Land Use Guide's Urban Residential category and the UZC's intent for the TCF-3 zoning district. The proposed amendment does not alter that conformance.

The Wichita Residential Area Enhancement Strategy of the Comprehensive Plan identifies this area as a "Re-establishment Area." A Re-establishment Area contains neighborhoods that exhibit deteriorating social organizations and a lack of private reinvestment. The Comprehensive Plan indicates that neighborhoods within a Re-establishment Area need some level of special enhancement or improvement in order to ensure future viability of the neighborhood. The proposed amendment to the existing group residence represents another opportunity to allow a vacant house (the originally approved CON2004-00008, never lead to occupancy of the house) to be reoccupied and provide additional housing opportunities, which meets the intent of the Re-establishment Area.

6. Impact of the proposed development on community facilities: Approval would increase traffic in the area.

BILL LONGNECKER, Planning Staff presented the Staff Report. He reported that DAB I recommended denial of the application 5-3 with 1 abstention. He said concerns expressed at the DAB meeting included using the property as it is zoned as TF-3 a Two-Family Residential duplex; that they don't want parking allowed on site; and that they prefer not to see the property used as a group residence. He said he has received one call protesting the amendment, from a person identifying themselves as the property owner abutting the east side of the site.

FOSTER referred to the site plan and asked if the privacy fence would be subject to the new provisions discussed at the last meeting.

GOLTRY reported that the request must conform to all the provisions of the original or the amended conditional use.

FOSTER asked about the garage and if the number of residents allowed would change if the garage was used for residents.

LONGNECKER said there will be a total of ten residents at the site, which included anyone living in the remodeled garage structure.

MITCHELL asked for clarification that the code on fence heights would be adopted and apply to this case.

GOLTRY said the ordinance is not in effect and that its provisions would apply if it was adopted before this case is finished.

MITCHELL clarified that the code change has been approved by the Planning Commission.

GOLTRY said yes and added that the change needs to be presented to the City Council and County Commission before it is formally adopted and in effect.

LEO STAHL, 601 HOMESTEAD COURT, COLWICH, KS, APPLICANT AND PROPERTY OWNER said he has previously lived in the neighborhood. He said rehabilitating this property will be an extremely large job. He said the home was built in 1890 for the first president of Fairmount College. He said the house has been vacant the past 15 years and has become an eyesore in the neighborhood. He mentioned that there are three other houses within the neighborhood that are also vacant. He said that houses don't fix themselves and that it takes time, money and talent to rehab them. He said he is trying to transform this residence from a neighborhood derelict into a neighborhood asset and that he would also like a fair chance to recoup his investment on the property. He said by allowing this property to become a group residence, it will make it more likely that a quality restoration will be done in a timely manner. He commented that it has been suggested that this group residence will become a source of disturbance in the neighborhood and that he disputes that claim. He said he won't allow the residence to be trashed by irresponsible students or tenants. He said he had several alternatives if the changes to the established conditional use are not approved. He said another group could try to pick up the property and rehabilitate it, but he did not think that is likely. He said the house could be split into a duplex since it is zoned for that, but he did not believe that will make it an asset to the neighborhood. He noted that if it was turned into a duplex, it will allow ten people to live in it, the same number that is being requested with the Conditional Use. He said he could demolish the house and garage and replat the lot which would more than likely be used for duplexes. He mentioned where other duplexes were located in the neighborhood. He concluded by stating that he can have a contractor start work within four days on the foundation, as they have called him telling him of their current availability.

CHAIRMAN VAN FLEET asked if the applicant was in agreement with the five conditions listed in the Staff Report.

STAHL said he was okay with the conditions listed.

MILLER STEVENS asked if there would be a management person on site.

STAHL said there would be a “person of responsibility.” He added that he has been working with a religious group based at WSU. He said having an adult living there was the only way to run a group home type of operation. He said there will be a central point or “go to person” in the house.

JAMES VAN MILLIGEN, PRESIDENT, FAIRMOUNT NEIGHBORHOOD ASSOCIATION said the neighborhood association is opposed to group residences located south of 16th Street in their neighborhood. He said seventy years ago when these zoning laws were implemented a few homes in the area were “grandfathered in” as group residences. He said to this date, every one of them is a problem to the neighborhood. He said the site in question is currently zoned as a group home for 10 people with an onsite supervisor. He said there was a statement made that the applicant can have ten people in a duplex. He said that is not true, he can only have six (three on each side). He said he could have two families of five each, but he cannot have ten unrelated people in a duplex. He said the house is an older home that has been extensively remodeled. He said a fraternity that occupied it removed much of the interior of the house and that the residence has been vacant since then. He said they oppose this use because this is a residential neighborhood and they would like to keep it that way. He said that property located north of 16th Street is zoned multi-family and that’s where group residences belonged. He said they would like to keep the neighborhood the way it is; and that they feel this change would be a deterioration of the neighborhood; and they would just as soon this not be allowed to occur.

STRAHL said there are three other derelict houses in the area which he referred to on the aerial of the neighborhood. He said some are going through condemnation hearings because people are not spending money to fix these places up. He said keeping it the way it is, is not working for the neighborhood. He said it was a nice idea but people cannot maintain those big houses. He said what he is proposing will increase property values in the area. He said he will be spending approximately \$150,000 on a house that is listed as worth approximately \$45,000 on the tax rolls. He said he bought the home at a tax auction.

MILLER STEVENS asked staff if they knew the percent of homes in the area that were owner occupied versus rentals.

LONGNECKER said he did not have that information.

FOSTER asked about the ten parking spaces mentioned in condition number three and asked if they could have more or was that the minimum requirement.

LONGNECKER responded that ten spaces was the minimum requirement.

FARNEY asked if there was a time limit on construction of the property.

LONGNECKER said staff did not put a time limit on this proposal, but added that in the past they have requested that construction and occupancy be finalized within a year on other projects.

FARNEY asked if the Commission granted this conditional use and the current owner sells the property, would the conditional use go to the new property owner.

LONGNECKER responded yes, just like the applicant inheriting the Conditional Use that is currently in place on the property.

MOTION: To approve subject to staff recommendation.

MITCHELL moved, **KLAUSMEYER** seconded the motion, and it carried (11-0).

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6. **Case No.: CON2009-47** - John R. Brooks (Owner/Applicant) James R. Albertson (Agent) Request County Conditional Use to amend CON2001-50, animal care general, to permit kennels for rescued dogs and cats on property described as:

That part of the Northwest Quarter of Section 12, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as commencing at the Northwest corner of said Northwest Quarter; thence S00°17'50" East, along the West line of said Northwest Quarter, 1965.00 feet; thence N89°42'25" East, parallel with the North line of said Northwest Quarter, 512.89 for a place of beginning; thence North 00°17'50" West, 665 feet; thence North 89°42'25" East, 847.11 feet; thence South 00°17'50" East, 665.00 feet; thence South 89°42'25" West, 847.11 feet to the place of beginning, generally located east of 143rd Street East, midway between 31st and 39th Streets South.

BACKGROUND: The applicant is requesting amendment #1 to CON2001-00005, a Conditional Use that allowed "animal care, general," which added veterinary services to the site's existing horse breeding services, with conditions. CON2001-00005's approved site plan showed no outdoor dog and/or cat kennels, nor did its application request outdoor kennels at that time, thus the main reason for the current requested amendment; a boarding kennel for rescued (stray/abandoned) dogs and cats that includes outdoor runs. As defined by the Unified Zoning Code (UZC), Art.II, Sec.II-B, 6-h, a boarding/breeding/training kennel houses five or more adult dogs, three or more which are owned by someone other than the property resident, and/or is a premises housing more than 10 adult dogs. A kennel for boarding/breeding/training can be considered for a Conditional Use in the RR Rural Residential ("RR") zoning district, per the standards of the (UZC), "Supplementary Use Regulations"; Art.III, Sec.III-D, 6-k (see attached). The applicant is proposing a maximum of 80 dogs and 40 cats (all rescued). A 6,000-sqaure foot boarding kennel is proposed for the rescued dogs and cats. Prior to this kennel being built the applicant proposes up to 40 dogs and 20 cats (all rescued animals) being housed in a northwest portion of the existing barn, which is used for horses and the veterinary clinic. Dogs and cats will be allowed outside from 8:00 A.M.-5:00 P.M., every day. When they are outside they will be contained within a 6-foot solid fenced area. Art.III, Sec.III-D, 6-k, requires solid screening around a kennel, when it is located within 600 feet of contiguous property lines. Art.III, Sec.III-D, 6-k also requires outdoor kennels/runs to be located at least 200 feet from any dwelling unit, other than the owners, and 50 feet from contiguous property lines. The applicant is aware of these location standards and will provide a revised site plan as a handout at the MAPC meeting, which will provide kennel location distances. Art.III, Sec.III-D, 6-k requires a minimum of a 5-acre site for a boarding kennel; the applicant has provided a 12.93-acre site out of the 40-acre tract he owns.

The amendment would also increase the size of the site from approximately 10.35-acres to 12.93-acres, enlarge the existing veterinary hospital/barn by 6,400-sqaure feet and add a 3,200-sqaure foot horse barn. It also would permit a 32-sqaure foot, double-faced, monument sign on 143rd Street East.

The applicant's site plan also shows the existing facility, its proposed expansion, the proposed horse barn, the proposed kennel, the existing gravel drive, and the existing lagoon. The site plan needs to show existing and proposed lighting, parking, any and all utilities, setbacks and the distances of the proposed kennel from residences and contiguous property lines. Access is shown onto 143rd Street East.

The nearest residences' (three, built 1896, 1955 and 1981) property lines are located 550-1,000 feet north and west of the site and are zoned RR. RR zoned agricultural fields abut the north, east and south sides of

the site; there is a barn on the abutting southern property. A SF-20 Single-family Residential (SF-20") zoned agricultural field is located west of the site, across 143rd Street East.

CASE HISTORY: The unplatted tract is currently being used for agriculture, the breeding of horses. Conditional Use, CON2001-00005, allowed "animal care, general," and added veterinary services to the existing horse breeding services, with conditions.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Agricultural fields, single-family residences
EAST:	RR	Agricultural fields
SOUTH:	RR	Agricultural fields and a barn
WEST:	RR, SF-20	Agricultural fields, single-family residences

PUBLIC SERVICES: 31st Street South is a two lane arterial, paved and maintained by the County. 143rd Street is an unpaved County section line road. The 2030 Transportation Map shows no change to the status to these roads. There is electricity for the site. There is no public water or sewer for the site. There is electricity for the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the area as being in the "urban development mix" category and within the outer edge of the 2030 Wichita growth area. The urban development mix category encompasses land that will likely be developed within the next 30 years with uses predominately found in the "urban residential use" category of the Guide. There is also the strong likelihood that concentrations and pockets of uses found in the "major institutional" and "local commercial" categories, as well as "regional commercial" and "employment centers," could develop in this area, depending on proximity to arterial roads. Needless to say these categories ponder the possibility of a wide range of uses, including all housing types, public and civic uses, the smallest to largest retail and manufacturing-warehousing-shipping developments. The UZC lists a kennel used for boarding/breeding/training as a "commercial use," which fits into the urban development mix category. Current zoning of the site is RR, with RR zoning to the north, south and east of the site, and some SF-20 zoning north and west of the site.

A kennel for boarding/breeding/training can be considered for a Conditional Use in the RR zoning district, per the standards of the UZC, Art.III, Sec.III-D, 6-k. The site appears to conform to most of those standards, with conformation of the distance standards for separating a kennel from contiguous property lines still needed. It appears that the 12.96-acre site is large enough to conform to those distance standards.

As noted, the UZC list a kennel used for boarding/ breeding/training as a "commercial" use. The Commercial Locational Guidelines of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and not have commercially-generated traffic should not feed directly onto local residential streets. The site has access to a sand and gravel County Section Line road and will not generate commercial traffic that will feed directly into residential streets. The Locational Guidelines also state that the site should have design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The size of the site, coupled with existing hedge rows and trees provide the area needed to get the site in compliance with the UZC and provide mature landscape for buffering.

RECOMMENDATION: Based on the information available prior to the public hearing, staff recommends the amendment application to CON2001-00005 be APPROVED subject to the following conditions:

- (1) Retain the conditions of CON2001-00005, animal care general and expand the site to 12.93-acres.
- (2) A Conditional Use for a boarding kennel for rescued (abandoned/stray) dogs and cats shall

comply with Section III.D.6.k of the Wichita-Sedgwick County Unified Zoning Code and all applicable federal, state, and local requirements.

- (3) The number of rescued adult dogs and cats authorized to be boarded shall not exceed 80 dogs and 40 cats at any one time.
- (4) Dogs and cats will be allowed outside from 8:00 A.M.–5:00 P.M., every day. When they are outside they will be contained within a 6-foot tall solid fenced area.
- (5) The property shall be developed and maintained in accordance with a revised site plan approved by the Planning Director, showing lighting, landscaping, setbacks, solid screening, all buildings, parking, and other applicable features of the site, all in conformance with the UZC. No permits are to be issued until the revised site plan is approved.
- (6) The kennel operator shall have on file proof of rabies vaccinations by a licensed veterinarian.
- (7) Cleaning of the boarding kennel facility shall be performed as often as necessary to maintain sanitary conditions, and a “suitable method” of eliminating excess water from animal housing facilities shall be provided as determined by the Environmental Services. Interior surface materials shall be constructed of non-porous materials that are impervious to moisture.
- (8) Sufficient quantities of food and water shall be provided to keep the dogs in good physical condition. The animals shall be fed at least once daily and provided clean water at all times. Food and water containers shall be located to minimize contamination and shall be cleaned as often as necessary to maintain sanitary conditions.
- (9) All waste materials shall be disposed of in such a manner as to minimize odors and disease hazards. The boarding kennel shall be maintained in a sanitary manner as required by applicable codes.
- (10) The animals confined in the boarding kennel shall be maintained in good physical condition, free of infectious diseases and parasites.
- (11) The applicant shall obtain all applicable permits including, but not limited to building, health and zoning.
- (12) The boarding facility shall be open to the unannounced inspection by Code Enforcement personnel during reasonable daylight hours to insure continued compliance with the above requirements.
- (13) Permit a 32-square foot, double-faced, monument sign on 143rd Street East, as approved by County Permits and Code.
- (14) If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the surrounding area: The nearest residences’ (three, built 1896, 1955 and 1981) property lines are located 550-1,000 feet north and west of the site and are zoned RR. RR zoned agricultural fields abut the north, east and south sides of the site; there is a barn on the abutting southern property. An SF-20 Single-family Residential (SF-20”) zoned agricultural field is located west of the site, across 143rd Street East.

2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used as veterinary facility (animal care, general) with horse breeding services. Providing a boarding kennel for rescued dogs and cats would seem to be a reasonable extension of the site's existing veterinary facility
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Potential noise and odors generated by the dogs using the kennel are the potential negative impact. The size of the site, its existing mature trees and the listed conditions should work to minimize negative effects.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the area as being in the "urban development mix" category and within the outer edge of the 2030 Wichita growth area. The urban development mix category encompasses land that will likely be developed within the next 30 years with uses predominately found in the "urban residential use" category of the Guide. There is also the strong likelihood that concentrations and pockets of uses found in the "major institutional" and "local commercial" categories, as well as "regional commercial" and "employment centers," could develop in this area, depending on proximity to arterial roads. Needless to say these categories ponder the possibility of a wide range of uses, including all housing types, public and civic uses, the smallest to largest retail and manufacturing-warehousing-shipping developments. The UZC list a kennel used for boarding/ breeding/training as a "commercial" use," which fits into the urban development mix category. Current zoning of the site is RR, with RR zoning to the north, south and east of the site, and some SF-20 zoning north and west of the site.

A kennel for boarding/breeding/training can be considered for a Conditional Use in the RR zoning district, per the standards of the UZC, Art.III, Sec.III-D, 6-k. The site appears to conform to most of those standards, with conformation of the distance standards for separating a kennel from contiguous property lines still needed. It appears that the 12.96-acre site is large enough to conform to those distance standards.

As noted, the UZC list a kennel used for boarding/ breeding/training as a "commercial" use. The Commercial Locational Guidelines of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and not have commercially-generated traffic should not feed directly onto local residential streets. The site has access to a sand and gravel County Section Line road and will not generate commercial traffic that will feed directly into residential streets. The Locational Guidelines also state that the site should have design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The size of the site, coupled with existing hedge rows and trees provide the area needed to get the site in compliance with the UZC and provide mature landscape for buffering.

5. Impact of the proposed development on community facilities: Approval should not impact community facilities to any significant degree, with the possible exception of the site generating more traffic onto 143rd Street East, an unpaved County section line road.

BILL LONGNECKER, Planning Staff presented the Staff Report. He reported that Staff has received no calls or correspondence on the case.

JIM ALBERTSON, AGENT FOR THE OWNER said he would stand for questions.

CHAIRMAN VAN FLEET asked if the owner was agreeable to all the conditions listed in the Staff Report.

ALBERTSON responded yes sir. He mentioned that the new horse barn was 3,400 square feet, not 3,200 square feet.

LONGNECKER said the Commission had received a handout of an amended site plan with more details and distances, including the information on the new horse barn.

MOTION: To approve subject to staff recommendation.

DENNIS moved, **JOHNSON** seconded the motion, and it carried (11-0).

NON-PUBLIC HEARING ITEMS

7. Other Matters/Adjournment

JOHNSON mentioned that the City Council took action on the impound yard proposal. He asked staff if they had any comments.

DIRECTOR SCHLEGEL reported that the Council had quite a lengthy and lively discussion concerning the proposal and eventually voted 5-2 to deny the request. He said the majority felt an impound lot was no different than a wrecking/salvage yard and should continue to be classified that way.

MITCHELL commented so adding the conditional use process didn't help.

MCKAY reported that Planning Staff gave a presentation and update on the Downtown Development Plan at the Advanced Plans Committee and he suggested that the presentation be given to the entire Planning Commission at the next meeting. He said the presentation was very interesting and well done.

MILLER STEVENS asked if staff was going to give the presentation to the full Commission, was there a need for him to also give the report to the Advance Plans Committee. She asked if the Commission would be taking action on the presentation.

DIRECTOR SCHLEGEL said the presentation was for informational purposes only.

MCKAY clarified that rather than have the Planning Commission just review the Plan cold and be asked to take action on it, that the Commission be given updates along the way, just like the Advance Plans Committee received this morning so everyone knows the status of the project and what is going on with it.

CHAIRMAN VAN FLEET mentioned that all Commission members receive a notice of the Advance Plans Committee meetings. He said he would like to issue an invitation to the next Advance Plans Committee meeting because he feels they are very worthwhile.

HENTZEN clarified that the Committee did not vote on the Downtown Master Plan, they just heard a report on the progress to date.

The Metropolitan Area Planning Department informally adjourned at 2:28 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2010.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)